

AMENDED IN SENATE MAY 2, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 549

Introduced by Assembly Member Carter

February 16, 2011

An act to amend Sections 42461, 42463, and 42476, ~~and 42479~~ of, *to add Section 42461.5 to, and to repeal and add Section 42479 of*, the Public Resources Code, relating to recycling.

LEGISLATIVE COUNSEL'S DIGEST

AB 549, as amended, Carter. Recycling: electronic waste.

Existing

(1) *Existing* law, the Electronic Waste Recycling Act of 2003 (*act*), requires a retailer selling a covered electronic device in this state to collect a covered electronic waste recycling fee from the consumer, as specified. These fees are deposited in the Electronic Waste Recovery and Recycling Account, and the Department of Resources Recycling and Recovery (CalRecycle) is continuously appropriated the money in the account to, among other things, make electronic waste recovery payments and recycling payments. CalRecycle is authorized to make these payments only if certain conditions are met. ~~CalRecycle is required to make these payments to an authorized collector or covered electronic waste recycler upon receipt of a completed and verified invoice submitted to CalRecycle in the form and manner determined by CalRecycle.~~ *Existing law requires the act to be enforced pursuant to the hazardous waste control laws, a violation of which, including the making of a false statement or representation in a document, is a crime.*

This bill would additionally require, as a condition of making these payments, that the covered electronic ~~device for which the payment is~~

~~claimed was used in this state. The bill would authorize CalRecycle to review any documentation required to be submitted by an authorized collector or covered electronic waste recycler before making these payments, and to refuse to make these payments, if CalRecycle determines that the documentation is incomplete or not in compliance with the act or the regulations adopted pursuant to the act. The waste is demonstrated to have been generated by a person who used the covered electronic device while located in this state. The bill would specify that covered electronic waste generated outside of the state and subsequently brought into the state is not eligible for payment and would require CalRecycle to establish documentation requirements necessary to demonstrate that covered electronic waste was generated in the state and eligible for payment. Since a false statement or representation in that document would be a crime, the bill would impose a state-mandated local program.~~

(2) The act requires CalRecycle, for covered electronic waste collected for recycling on and after January 1, 2005, to make those electronic waste recycling and recovery payments for the collection and recycling of covered electronic waste to an authorized collector or covered electronic waste recycler, respectively, upon receipt of a completed and verified invoice submitted to CalRecycle by the authorized collector or recycler in the form and manner determined by CalRecycle.

This bill would instead require CalRecycle to make those electronic waste recycling and recovery payments for the collection and recycling of covered e-waste to an authorized collector or covered e-waste recycler, respectively, upon completion of CalRecycle's review of a payment claim, submitted to CalRecycle in the form and manner determined by CalRecycle. The bill would also authorize CalRecycle to conduct a selective audit of authorized collectors, covered e-waste recyclers, or manufacturers receiving payments from CalRecycle to determine whether electronic waste recovery or recycling payments or payments to manufacturers are being made by CalRecycle according to the requirements of the act and the regulations adopted pursuant to that act, and would prescribe procedures for the appeal of CalRecycle's denial or adjustment of a payment claim by a covered e-waste recycler that is dissatisfied with CalRecycle's action in that regard.

The bill would also make conforming changes with reference to CalRecycle.

(3) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 42461 of the Public Resources Code is
2 amended to read:

3 42461. The Legislature finds and declares all of the following:

4 (a) The purpose of this chapter is to enact a comprehensive and
5 innovative system for the reuse, recycling, and proper and legal
6 disposal of covered electronic devices, and to provide incentives
7 to design electronic devices that are less toxic, more recyclable,
8 and that use recycled materials.

9 (b) It is the further purpose of this chapter to enact a law that
10 establishes a program that is cost free and convenient for consumers
11 and the public to return, recycle, and ensure the safe and
12 environmentally-sound disposal of covered electronic devices.

13 (c) It is the intent of the Legislature that the cost associated with
14 the handling, recycling, and disposal of covered electronic devices
15 is the responsibility of the producers and consumers of covered
16 electronic devices, and not local government or their service
17 providers, state government, or taxpayers.

18 (d) In order to reduce the likelihood of illegal disposal of these
19 hazardous materials, it is the intent of this chapter to ensure that
20 any cost associated with the proper management of covered
21 electronic devices be internalized by the producers and consumers
22 of covered electronic devices at or before the point of purchase,
23 and not at the point of discard.

24 (e) Manufacturers of covered electronic devices, in working to
25 achieve the goals and objectives of this chapter, should have the
26 flexibility to partner with each other and with those public sector
27 entities and business enterprises that currently provide collection
28 and processing services to develop and promote a safe and effective
29 covered electronic device recycling system for California.

(f) The producers of electronic products, components, and devices should reduce and, to the extent feasible, ultimately phase out the use of hazardous materials in those products.

(g) Electronic products, components, and devices, to the greatest extent feasible, should be designed for extended life, repair, and reuse.

(h) The purpose of the Hazardous Electronic Waste Recycling Act is to provide sufficient funding for the safe, cost-free, and convenient collection and recycling of 100 percent of the covered electronic waste *initially* discarded ~~or offered for recycling~~ in the state, to eliminate electronic waste stockpiles and legacy devices by December 31, 2007, to end the illegal disposal of covered electronic devices, to establish manufacturer responsibility for reporting to the board on the manufacturer's efforts to phase out hazardous materials in electronic devices and increase the use of recycled materials, and to ensure that electronic devices sold in the state do not violate the regulations adopted by the Department of Toxic Substances Control pursuant to Section 25214.10 of the Health and Safety Code.

SEC. 2. Section 42461.5 is added to the Public Resources Code, to read:

42461.5. (a) The Legislature finds and declares that the changes made by this act of the 2011–12 Regular Session of the Legislature to subdivision (h) of Section 42461, subdivision (f) of Section 42476, and subdivision (a) of Section 42479, clarify and strengthen the enforcement provisions of the act, so as to implement the Legislature's intent when this chapter was first enacted on January 1, 2003.

(b) The changes specified in subdivision (a) shall not be interpreted as affecting an administrative or legal enforcement action that was filed before, or is pending on, January 1, 2013, and shall not prevent the taking of a legal or administrative enforcement action that may be brought on or after January 1, 2013, with regard to any actions taken, or claims filed, before that date.

SECTION 1.

SEC. 3. Section 42463 of the Public Resources Code is amended to read:

1 42463. For the purposes of this chapter, the following terms
2 have the following meanings, unless the context clearly requires
3 otherwise:

4 (a) “Account” means the Electronic Waste Recovery and
5 Recycling Account created in the Integrated Waste Management
6 Fund under Section 42476.

7 (b) “Authorized collector” means any of the following:

8 (1) A city, county, or district that collects covered electronic
9 devices.

10 (2) A person or entity that is required or authorized by a city,
11 county, or district to collect covered electronic devices pursuant
12 to the terms of a contract, license, permit, or other written
13 authorization.

14 (3) A nonprofit organization that collects or accepts covered
15 electronic devices.

16 (4) A manufacturer or agent of the manufacturer that collects,
17 consolidates, and transports covered electronic devices for
18 recycling from consumers, businesses, institutions, and other
19 generators.

20 (5) An entity that collects, handles, consolidates, and transports
21 covered electronic devices and has filed applicable notifications
22 with the department pursuant to Chapter 23 (commencing with
23 Section 66273.1) of Division 4.5 of Title 22 of the California Code
24 of Regulations.

25 (c) “CalRecycle” means the Department of Resources Recycling
26 and Recovery.

27 (d) “Consumer” means a person who purchases a new or
28 refurbished covered electronic device in a transaction that is a
29 retail sale or in a transaction to which a use tax applies pursuant
30 to Part 1 (commencing with Section 6001) of Division 2 of the
31 Revenue and Taxation Code.

32 (e) Notwithstanding Section 40118, “department” means the
33 Department of Toxic Substances Control.

34 (f) (1) Except as provided in paragraph (2), “covered electronic
35 device” means a video display device containing a screen greater
36 than four inches, measured diagonally, that is identified in the
37 regulations adopted by the department pursuant to subdivision (b)
38 of Section 25214.10.1 of the Health and Safety Code.

39 (2) “Covered electronic device” does not include any of the
40 following:

1 (A) A video display device that is a part of a motor vehicle, as
2 defined in Section 415 of the Vehicle Code, or any component
3 part of a motor vehicle assembled by, or for, a vehicle manufacturer
4 or franchised dealer, including replacement parts for use in a motor
5 vehicle.

6 (B) A video display device that is contained within, or a part of
7 a piece of industrial, commercial, or medical equipment, including
8 monitoring or control equipment.

9 (C) A video display device that is contained within a clothes
10 washer, clothes dryer, refrigerator, refrigerator and freezer,
11 microwave oven, conventional oven or range, dishwasher, room
12 air-conditioner, dehumidifier, or air purifier.

13 (D) An electronic device, on and after the date that it ceases to
14 be a covered electronic device under subdivision (e) of Section
15 25214.10.1 of the Health and Safety Code.

16 (g) “Covered electronic waste” or “covered e-waste” means a
17 covered electronic device that is discarded.

18 (h) “Covered electronic waste recycling fee” or “covered e-waste
19 recycling fee” means the fee imposed pursuant to Article 3
20 (commencing with Section 42464).

21 (i) “Covered electronic waste recycler” or “covered e-waste
22 recycler” means any of the following:

23 (1) A person who engages in the manual or mechanical
24 separation of covered electronic devices to recover components
25 and commodities contained therein for the purpose of reuse or
26 recycling.

27 (2) A person who changes the physical or chemical composition
28 of a covered electronic device, in accordance with the requirements
29 of Chapter 6.5 (commencing with Section 25100) of Division 20
30 of the Health and Safety Code and the regulations adopted pursuant
31 to that chapter, by deconstructing, size reduction, crushing, cutting,
32 sawing, compacting, shredding, or refining for purposes of
33 segregating components, for purposes of recovering or recycling
34 those components, and who arranges for the transport of those
35 components to an end user.

36 (3) A manufacturer who meets any conditions established by
37 this chapter and Chapter 6.5 (commencing with Section 25100)
38 of Division 20 of the Health and Safety Code for the collection or
39 recycling of covered electronic waste.

1 (j) “Discarded” has the same meaning as defined in subdivision
2 (b) of Section 25124 of the Health and Safety Code.

3 (k) “Electronic waste recovery payment” means an amount
4 established and paid by CalRecycle pursuant to Section 42477.

5 (l) “Electronic waste recycling payment” means an amount
6 established and paid by CalRecycle pursuant to Section 42478.

7 (m) “Hazardous material” has the same meaning as defined in
8 Section 25501 of the Health and Safety Code.

9 (n) “Manufacturer” means either of the following:

10 (1) A person who manufactures a covered electronic device sold
11 in this state.

12 (2) A person who sells a covered electronic device in this state
13 under that person’s brand name.

14 (o) “Person” means an individual, trust firm, joint stock
15 company, business concern, and corporation, including, but not
16 limited to, a government corporation, partnership, limited liability
17 company, and association. Notwithstanding Section 40170,
18 “person” also includes a city, county, city and county, district,
19 commission, the state or a department, agency, or political
20 subdivision thereof, an interstate body, and the United States and
21 its agencies and instrumentalities to the extent permitted by law.

22 (p) “Recycling” has the same meaning as defined in subdivision
23 (a) of Section 25121.1 of the Health and Safety Code.

24 (q) “Refurbished,” when used to describe a covered electronic
25 device, means a device that the manufacturer has tested and
26 returned to a condition that meets factory specifications for the
27 device, has repackaged, and has labeled as refurbished.

28 (r) “Retailer” means a person who makes a retail sale of a new
29 or refurbished covered electronic device. “Retailer” includes a
30 manufacturer of a covered electronic device who sells that covered
31 electronic device directly to a consumer through any means,
32 including, but not limited to, a transaction conducted through a
33 sales outlet, catalog, or the Internet, or any other similar electronic
34 means.

35 (s) (1) “Retail sale” has the same meaning as defined under
36 Section 6007 of the Revenue and Taxation Code.

37 (2) “Retail sale” does not include the sale of a covered electronic
38 device that is temporarily stored or used in California for the sole
39 purpose of preparing the covered electronic device for use
40 thereafter solely outside the state, and that is subsequently

1 transported outside the state and thereafter used solely outside the
2 state.

3 (t) “Vendor” means a person that makes a sale of a covered
4 electronic device for the purpose of resale to a retailer who is the
5 lessor of the covered electronic device to a consumer under a lease
6 that is a continuing sale and purchase pursuant to Part 1
7 (commencing with Section 6001) of Division 2 of the Revenue
8 and Taxation Code.

9 (u) “Video display device” means an electronic device with an
10 output surface that displays, or is capable of displaying, moving
11 graphical images or a visual representation of image sequences or
12 pictures, showing a number of quickly changing images on a screen
13 in fast succession to create the illusion of motion, including, if
14 applicable, a device that is an integral part of the display, in that
15 it cannot be easily removed from the display by the consumer, that
16 produces the moving image on the screen. A video display device
17 may use, but is not limited to, a cathode ray tube (CRT), liquid
18 crystal display (LCD), gas plasma, digital light processing, or other
19 image projection technology.

20 ~~SEC. 2.~~

21 *SEC. 4.* Section 42476 of the Public Resources Code is
22 amended to read:

23 42476. (a) The Electronic Waste and Recovery and Recycling
24 Account is hereby established in the Integrated Waste Management
25 Fund. All fees collected pursuant to this chapter shall be deposited
26 in the account. Notwithstanding Section 13340 of the Government
27 Code, the funds in the account are hereby continuously
28 appropriated, without regard to fiscal year, for the following
29 purposes:

30 (1) To pay refunds of the covered electronic waste recycling
31 fee imposed under Section 42464.

32 (2) To make electronic waste recovery payments to an
33 authorized collector of covered electronic waste pursuant to Section
34 42479.

35 (3) To make electronic waste recycling payments to covered
36 electronic waste recyclers pursuant to Section 42479.

37 (4) To make payments to manufacturers pursuant to subdivision
38 ~~(g)~~(h).

1 (b) (1) The money in the account may be expended for the
2 following purposes only upon appropriation by the Legislature in
3 the annual Budget Act:

4 (A) For the administration of this chapter by CalRecycle and
5 the department.

6 (B) To reimburse the State Board of Equalization for its
7 administrative costs of registering, collecting, making refunds, and
8 auditing retailers and consumers in connection with the covered
9 electronic waste recycling fee imposed under Section 42464.

10 (C) To provide funding to the department to implement and
11 enforce Chapter 6.5 (commencing with Section 25100) of Division
12 20 of the Health and Safety Code, as that chapter relates to covered
13 electronic devices, and any regulations adopted by the department
14 pursuant to that chapter.

15 (D) To establish the public information program specified in
16 subdivision (d).

17 (2) Any fines or penalties collected pursuant to this chapter shall
18 be deposited in the Electronic Waste Penalty Subaccount, which
19 is hereby established in the account. The funds in the Electronic
20 Waste Penalty Subaccount may be expended by CalRecycle or the
21 department only upon appropriation by the Legislature.

22 (c) Notwithstanding Section 16475 of the Government Code,
23 any interest earned upon funds in the Electronic Waste Recovery
24 and Recycling Account shall be deposited in that account for
25 expenditure pursuant to this chapter.

26 (d) Not more than 1 percent of the funds annually deposited in
27 the Electronic Waste Recovery and Recycling Account shall be
28 expended for the purposes of establishing the public information
29 program to educate the public in the hazards of improper covered
30 electronic device storage and disposal and on the opportunities to
31 recycle covered electronic devices.

32 (e) CalRecycle shall adopt regulations specifying cancellation
33 methods for the recovery, processing, or recycling of covered
34 electronic waste.

35 (f) CalRecycle may pay an electronic waste recycling payment
36 or electronic waste recovery payment *only* for covered electronic
37 waste ~~only if that meets all of the following conditions are met:~~

38 (1) (A) *The covered electronic waste is demonstrated to have*
39 *been generated by a person who used the covered electronic device*
40 *while located in this state.*

1 (B) Covered electronic waste generated outside of the state and
2 subsequently brought into the state is not eligible for payment.

3 (C) CalRecycle shall establish documentation requirements for
4 purposes of this paragraph that are necessary to demonstrate that
5 the covered electronic waste was generated in the state and eligible
6 for payment.

7 ~~(1)~~

8 (2) The covered electronic waste, including any residuals from
9 the processing of the waste, is handled in compliance with all
10 applicable statutes and regulations.

11 ~~(2)~~

12 (3) The manufacturer or the authorized collector or recycler of
13 the electronic waste ~~provide~~ provides a cost free and convenient
14 opportunity to recycle electronic waste, in accordance with the
15 legislative intent specified in subdivision (b) of Section 42461.

16 ~~(3)~~

17 (4) If the covered electronic waste is processed, the covered
18 electronic waste is processed in this state according to the
19 cancellation method authorized by CalRecycle.

20 ~~(4) The covered electronic device for which the payment is~~
21 ~~claimed was used in this state.~~

22 (g) ~~CalRecycle~~ The Legislature hereby declares that the state
23 is a market participant in the business of the recycling of covered
24 electronic waste for all of the following reasons:

25 (1) The fee is collected from the state's consumers for covered
26 electronic devices sold for use in the state.

27 (2) The purpose of the fee and subsequent payments is to prevent
28 damage to the public health and the environment from waste
29 generated in the state.

30 (3) The recycling system funded by the fee ensures that
31 economically viable and sustainable markets are developed and
32 supported for recovered materials and components in order to
33 conserve resources and maximize business and employment
34 opportunities within the state.

35 (h) (1) CalRecycle may make a payment to a manufacturer that
36 takes back a covered electronic device from a consumer in this
37 state for purposes of recycling the device at a processing facility.
38 The amount of the payment made by CalRecycle shall equal the
39 value of the covered electronic waste recycling fee paid for that
40 device. To qualify for a payment pursuant to this subdivision, the

1 manufacturer shall demonstrate both of the following to
2 CalRecycle:

3 (A) The covered electronic device for which payment is claimed
4 was used in this state.

5 (B) The covered electronic waste for which a payment is
6 claimed, including any residuals from the processing of the waste,
7 has been, and will be, handled in compliance with all applicable
8 statutes and regulations.

9 (2) A covered electronic device for which a payment is made
10 under this subdivision is not eligible for an electronic waste
11 recovery payment or an electronic waste recycling payment under
12 Section 42479.

13 ~~SEC. 3. Section 42479 of the Public Resources Code is~~
14 ~~amended to read:~~

15 ~~42479. (a) (1) (A) For covered electronic waste collected for~~
16 ~~recycling on and after January 1, 2005, CalRecycle shall make~~
17 ~~electronic waste recovery payments and electronic waste recycling~~
18 ~~payments for the collection and recycling of covered electronic~~
19 ~~waste to an authorized collector or covered electronic waste~~
20 ~~recycler, respectively, upon receipt of a completed and verified~~
21 ~~invoice submitted to CalRecycle by the authorized collector or~~
22 ~~recycler in the form and manner determined by CalRecycle.~~

23 ~~(B) CalRecycle may review any documentation required to be~~
24 ~~submitted by an authorized collector or covered electronic waste~~
25 ~~recycler before making a payment authorized by this chapter.~~
26 ~~CalRecycle may refuse to make a payment pursuant to this chapter~~
27 ~~if it determines the documentation submitted by an authorized~~
28 ~~collector or covered electronic waste recycler is incomplete or~~
29 ~~otherwise not in compliance with this chapter or the regulations~~
30 ~~adopted pursuant to this chapter.~~

31 ~~(2) To the extent authorized pursuant to Section 42477, a~~
32 ~~covered electronic waste recycler shall make the electronic waste~~
33 ~~recovery payments to an authorized collector upon receipt of a~~
34 ~~completed and verified invoice submitted to the recycler by the~~
35 ~~authorized collector in the form and manner determined by~~
36 ~~CalRecycle.~~

37 ~~(b) An e-waste recycler is eligible for a payment pursuant to~~
38 ~~this section only if the e-waste recycler meets all of the following~~
39 ~~requirements:~~

1 ~~(1) The e-waste recycler is in compliance with applicable~~
2 ~~requirements of Article 6 (commencing with Section 66273.70)~~
3 ~~of Chapter 23 of Division 4.5 of Title 22 of the California Code~~
4 ~~of Regulations.~~

5 ~~(2) The e-waste recycler demonstrates to CalRecycle that any~~
6 ~~facility utilized by the e-waste recycler for the handling, processing,~~
7 ~~refurbishment, or recycling of covered electronic devices meets~~
8 ~~all of the following standards:~~

9 ~~(A) The facility has been inspected by the department within~~
10 ~~the past 12 months and had been found to be operating in~~
11 ~~conformance with all applicable laws, regulations, and ordinances.~~

12 ~~(B) The facility is accessible during normal business hours for~~
13 ~~unannounced inspections by state or local agencies.~~

14 ~~(C) The facility has health and safety, employee training, and~~
15 ~~environmental compliance plans and certifies compliance with the~~
16 ~~plans.~~

17 ~~(D) The facility meets or exceed the standards specified in~~
18 ~~Chapter 1 (commencing with Section 1171) of Part 4 of Division~~
19 ~~2, Division 4 (commencing with Section 3200), and Division 5~~
20 ~~(commencing with Section 6300), of the Labor Code or, if all or~~
21 ~~part of the work is to be performed in another state, the equivalent~~
22 ~~requirements of that state.~~

23 ~~SEC. 5. Section 42479 of the Public Resources Code is~~
24 ~~repealed.~~

25 ~~42479. (a) (1) For covered electronic waste collected for~~
26 ~~recycling on and after January 1, 2005, the board shall make~~
27 ~~electronic waste recovery payments and electronic waste recycling~~
28 ~~payments for the collection and recycling of covered electronic~~
29 ~~waste to an authorized collector or covered electronic waste~~
30 ~~recycler, respectively, upon receipt of a completed and verified~~
31 ~~invoice submitted to the board by the authorized collector or~~
32 ~~recycler in the form and manner determined by the board.~~

33 ~~(2) To the extent authorized pursuant to Section 42477, a~~
34 ~~covered electronic waste recycler shall make the electronic waste~~
35 ~~recovery payments to an authorized collector upon receipt of a~~
36 ~~completed and verified invoice submitted to the recycler by the~~
37 ~~authorized collector in the form and manner determined by the~~
38 ~~board.~~

1 ~~(b) An e-waste recycler is eligible for a payment pursuant to~~
2 ~~this section only if the e-waste recycler meets all of the following~~
3 ~~requirements:~~

4 ~~(1) The e-waste recycler is in compliance with applicable~~
5 ~~requirements of Article 6 (commencing with Section 66273.70)~~
6 ~~of Chapter 23 of Division 4.5 of Title 22 of the California Code~~
7 ~~of Regulations.~~

8 ~~(2) The e-waste recycler demonstrates to the board that any~~
9 ~~facility utilized by the e-waste recycler for the handling, processing,~~
10 ~~refurbishment, or recycling of covered electronic devices meets~~
11 ~~all of the following standards:~~

12 ~~(A) The facility has been inspected by the department within~~
13 ~~the past 12 months and had been found to be operating in~~
14 ~~conformance with all applicable laws, regulations, and ordinances.~~

15 ~~(B) The facility is accessible during normal business hours for~~
16 ~~unannounced inspections by state or local agencies.~~

17 ~~(C) The facility has health and safety, employee training, and~~
18 ~~environmental compliance plans and certifies compliance with the~~
19 ~~plans.~~

20 ~~(D) The facility meets or exceed the standards specified in~~
21 ~~Chapter 1 (commencing with Section 1171) of Part 4 of Division~~
22 ~~2, Division 4 (commencing with Section 3200), and Division 5~~
23 ~~(commencing with Section 6300), of the Labor Code or, if all or~~
24 ~~part of the work is to be performed in another state, the equivalent~~
25 ~~requirements of that state.~~

26 ~~SEC. 6. Section 42479 is added to the Public Resources Code,~~
27 ~~to read:~~

28 ~~42479. (a) (1) For covered electronic waste collected for~~
29 ~~recycling on and after January 1, 2005, CalRecycle shall make~~
30 ~~electronic waste recovery payments and electronic waste recycling~~
31 ~~payments for the collection and recycling of covered e-waste to~~
32 ~~an authorized collector or covered e-waste recycler, respectively,~~
33 ~~upon completion of CalRecycle's review of a payment claim~~
34 ~~submitted to CalRecycle by the authorized collector or e-waste~~
35 ~~recycler in the form and manner determined by CalRecycle.~~
36 ~~CalRecycle may examine a payment claim for a period of not more~~
37 ~~than 90 days from the date of receipt of the payment claim to~~
38 ~~validate the claim's completeness, accuracy, truthfulness, and~~
39 ~~compliance with applicable laws and regulations. All of the~~

1 following shall be considered official records for purposes of
2 Section 1280 of the Evidence Code:

3 (A) The results of a payment claim review or subsequent
4 payment claim audit.

5 (B) Written information compiled by CalRecycle during a claim
6 review or subsequent claim audit.

7 (2) To the extent authorized by Section 42477, a covered e-waste
8 recycler shall make the electronic waste recovery payments to an
9 authorized collector upon receipt of a completed and verified
10 invoice submitted to the recycler by the authorized collector in the
11 form and manner determined by the CalRecycle.

12 (b) A covered e-waste recycler is eligible for a payment pursuant
13 to this section only if the covered e-waste recycler meets all of the
14 following requirements:

15 (1) The covered e-waste recycler is in compliance with
16 applicable requirements of Article 6 (commencing with Section
17 66273.70) of Chapter 23 of Division 4.5 of Title 22 of the
18 California Code of Regulations.

19 (2) The covered e-waste recycler demonstrates to CalRecycle
20 that a facility utilized by the covered e-waste recycler for the
21 handling, processing, refurbishment, or recycling of covered
22 electronic devices meets all of the following standards:

23 (A) The facility has been inspected by the department within
24 the past 12 months and had been found to be operating in
25 conformance with all applicable laws, regulations, and ordinances.

26 (B) The facility is accessible during normal business hours for
27 unannounced inspections by state or local agencies.

28 (C) The facility has health and safety, employee training, and
29 environmental compliance plans and certifies compliance with the
30 plans.

31 (D) The facility meets or exceeds the standards specified in
32 Chapter 1 (commencing with Section 1171) of Part 4 of Division
33 2 of, Division 4 (commencing with Section 3200) of, and Division
34 5 (commencing with Section 6300) of, the Labor Code or, if all or
35 part of the work is to be performed in another state, the equivalent
36 requirements of that state.

37 (c) CalRecycle may conduct a selective audit of authorized
38 collectors, covered e-waste recyclers, or manufacturers receiving
39 payments from CalRecycle to determine whether electronic waste
40 recovery payments, electronic waste recycling payments, or

1 *payments to manufacturers are being paid by CalRecycle according*
2 *to the requirements of this chapter and the regulations adopted*
3 *pursuant to this chapter. CalRecycle may collect and recover from*
4 *authorized collectors, covered e-waste recyclers, or manufacturers,*
5 *with interest, any moneys improperly paid.*

6 *(d) (1) A covered e-waste recycler that is dissatisfied with*
7 *CalRecycle's denial or adjustment of a payment claim may appeal*
8 *that action by filing a written appeal at the offices of CalRecycle*
9 *within 30 days of the date of the notice denying or adjusting the*
10 *claim.*

11 *(2) An appeal shall contain the covered e-waste recycler's name*
12 *and identification number from its proof of approval, the month*
13 *and year in question, a copy of the payment claim and the notice*
14 *denying the claim, a state of the facts and the law forming the basis*
15 *for appeal, a description of why CalRecycle's actions were in error,*
16 *and any other documentation that supports the appeal.*

17 *(3) An appeal that is received by CalRecycle after 30 days from*
18 *the date of the notice denying or adjusting the claim, or that lacks*
19 *the required content, shall be denied by CalRecycle without a*
20 *hearing or further consideration of the appeal.*

21 *(4) The hearing shall be before CalRecycle's director or*
22 *designee, who shall issue a written decision stating the factual*
23 *and legal basis for the decision.*

24 *SEC. 7. No reimbursement is required by this act pursuant to*
25 *Section 6 of Article XIII B of the California Constitution because*
26 *the only costs that may be incurred by a local agency or school*
27 *district will be incurred because this act creates a new crime or*
28 *infraction, eliminates a crime or infraction, or changes the penalty*
29 *for a crime or infraction, within the meaning of Section 17556 of*
30 *the Government Code, or changes the definition of a crime within*
31 *the meaning of Section 6 of Article XIII B of the California*
32 *Constitution.*